

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the present amendment and the following discussion is respectfully requested.

Claims 1, 3, 5, 7, and 8 are presently pending in this case. Claims 1, 3, 5, and 7 are amended, new Claim 8 is added, and Claims 2, 4, and 6 are canceled without prejudice or disclaimer by the present amendment. As amended Claims 1, 3, 5, and 7 and new Claim 8 are supported by the original disclosure,¹ no new matter is added.

In the outstanding Official Action, Claims 1-7 were rejected under 35 U.S.C. §103(a) as unpatentable over Itoh et al. (U.S. Patent Application Publication No. 20060205358, hereinafter “Itoh”) in view of Alastalo (U.S. Patent No. 6,721,302) and Takano (U.S. Patent Application Publication No. 20030148780).

The outstanding rejection is respectfully traversed.

Amended Claim 1 recites in part:

establishing a list of available modulation schemes,
each modulation scheme having an available transmission
block size;
detecting a channel quality *in the packet transmission
direction* between the base station and the mobile station;
detecting the amount of data buffered in a transmission
buffer of a sender; and
determining a modulation scheme to be used in the
packet communications based on the channel quality *in the
packet transmission direction* and the buffered data amount,
said determining including determining the modulation scheme
by selecting a modulation scheme from the list using a smallest
available transmission block size that is greater than or equal to
the amount of data buffered, *the modulation scheme being
determined such that a prescribed communication condition
is satisfied, and that padding, which is added to the data
buffered in the transmission buffer of the sender when the
buffered data amount is less than a transmission unit size,
becomes the minimum, based on the channel quality and the
buffered data amount.*

¹See, e.g., the specification at page 13, line 25 to page 14, line 20 and page 19, lines 11 and 12.

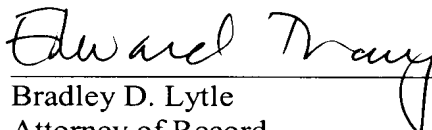
It is respectfully submitted that none of the cited references teach or suggest the subject matter newly added to amended Claims 1, 3, 5, and 7. In particular, Alastalo notes at column 3, lines 40-43 that the length of a packet can be changed, which can reduce the amount of padding if a lower data rate modulation is selected for the shorter of the simultaneously transmitted packets. However, Alastalo does not describe making the padding a *minimum*, as recited in the independent claims. In this regard, if Alastalo can choose any data rate modulation, and Alastalo intended to minimize the padding, Alastalo would describe selecting a data rate to provide *zero* padding. As Alastalo does not describe any such minimization of padding, it is respectfully submitted that Alastalo does not teach or suggest "determining a modulation scheme" as recited in amended Claim 1 and as similarly recited in the other independent claims. Consequently, Claims 1, 3, 5, and 7 are patentable over Itoh in view of Alastalo and Takano.

New Claim 8 is supported at least by the specification at page 13, line 25 to page 14, line 20. As new Claim 8 is dependent from Claim 1, new Claim 8 is allowable for least the reasons described above with respect to Claim 1.

Accordingly, the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 07/09)

Edward W. Tracy, Jr.
Registration No. 47,998